

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

CTK MARKETING, LLC,

Plaintiff,

– *against* –

TRISTAR PRODUCTS, INC., KISHORE L.  
MIRCHANDANI, IMEDIA BRANDS, INC.,

Defendants.

**ORDER**

22-cv-7998 (ER)

RAMOS, D.J.:

Pending before the Court are motions to dismiss the Second Amended Complaint filed by each of the three defendants. Docs. 26, 27, 28.

On July 12, 2023, counsel for iMedia Brands, Inc. (“iMedia”) informed the Court that it commenced Chapter 11 bankruptcy proceedings in the United States Bankruptcy Court for the District of Delaware. Doc. 34. Accordingly, pursuant to Section 362 of the Bankruptcy Code, the case was automatically stayed as to iMedia. *Id.* By July 20, 2023, the parties are directed to notify the Court in writing whether the case and pending motions should be stayed as to all parties.

Additionally, the Court notes that CTK Marketing failed to oppose the motion to dismiss filed by individual defendant Kishore L. Mirchandani. CTK Marketing indicated that it did not do so because “Defendant Keith Mirchandani [filed his motion] . . . despite not being served[,] and it is respectfully submitted [that] his motion is therefore procedurally defective.” Doc. 30 at 4 n.1. In response, Counsel for Tristar and Mirchandani requested that the Court “dismiss all causes of action against Mr. Mirchandani personally with prejudice, with leave to file a request

to shift fees with respect to the preparation of Mr. Mirchandani's Motion to Dismiss." Doc. 33 at 4 n.1.

Rule 4(m) of the Federal Rules of Civil Procedure provides that "[i]f a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—*must* dismiss the action without prejudice against that defendant or order that service be made within a specified time." Fed. R. Civ. P. 4(m) (emphasis added). In its letter to the Court, CTK Marketing is directed to indicate why dismissal as to Mirchandani is not appropriate at this juncture. CTK Marketing shall address the argument that dismissal should be with prejudice. *See* Doc. 33 at 4 n.1.

It is SO ORDERED.

Dated: July 13, 2023  
New York, New York

A handwritten signature in blue ink, appearing to read 'Edgardo Ramos', is positioned above a horizontal line.

EDGARDO RAMOS, U.S.D.J.